



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### MEMORANDUM

**TO:** Michael Lynch, Ohio Department of Job and Family Services

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** June 27, 2019

**RE:** **CSI Review – Substitute Care (OAC 5101:2-42-04, 5101:2-42-05, 5101:2-42-08, 5101:2-42-09, 5101:2-42-18.1, 5101:2-42-64, 5101:2-42-65, 5101:2-42-67, 5101:2-42-68, 5101:2-42-71, 5101:2-42-87, 5101:2-42-88, 5101:2-42-92, 5101:2-42-93, and 5101:2-42-95)**

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On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

#### Analysis

This rule package consists of 15 amended rules proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on April 26, 2019 and the public comment period was held open through May 3, 2019.

The rules in this package are part of Ohio Administrative Code (OAC) Chapter 5101:2-42, which concerns children who are placed into substitute care. OAC 5101:2-42-04 and 5101:2-42-05 set forth the authority to place children in substitute care and the selection of a placement setting. The rules are being amended to address substance use disorder residential facilities. OAC 5101:2-42-08 and 5101:2-42-09 address the acceptance of temporary and permanent custody and are being amended to update definitions and referenced rules. OAC 5101:2-42-18.1 establishes non-discrimination requirements for childcare agencies and includes amendments that update references. OAC 5101:2-42-64 and 5101:2-42-65 address preplacement services, which include counseling and caregiver visits, and caseworker visits. The rules are being amended to include substance use disorder facilities

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within the scope of the rules. OAC 5101:2-42-67 provides guidelines for the maintenance of a lifebook for each child in substitute care for over six months. OAC 5101:2-42-68 contains requirements for court reviews and hearings and is being amended to remove reference to the JFS 01414 review. OAC 5101:2-42-71 establishes the procedure for the approval of adult-supervised living arrangements and is being amended to make minor updates and remove a type of facility from the rule. OAC 5101:2-42-87 describes the process for termination of substitute care and includes changes that increase the amount of time of a trial visit to 90 consecutive days. OAC 5101:2-42-88, 5101:2-42-92, and 5101:2-42-93 address child disruption of placement, visitation, and changes of placement and feature minor updates.

During early stakeholder outreach, ODJFS sent the rules to stakeholders for feedback, including the Public Children Services Association of Ohio and county childcare workers. One comment was received during this time, which addressed including additional language regarding termination of custody. ODJFS responded and clarified that there is no statute that specifically terminates custody when a child turns 18 years old.

The business community impacted by these rules includes all private child placing agencies (PCPA) and private noncustodial agencies (PNA) in Ohio. The adverse cost created by the rules is largely composed of the time and effort spent by agencies adhering to the requirements of the rules. The rules require that agencies maintain certain records and reports with ODJFS to maintain their certification. ODJFS states that these rules provide children in substitute care with adequate protection and provide guidelines for proper handling custody.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.